



DEPARTMENT OF THE ARMY  
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
P.O. BOX 1715  
BALTIMORE, MD 21203-1715

REPLY TO  
ATTENTION OF

February 16, 2005

Operations Division

Subject: Comments on the Intercounty Connector DEIS

Mr. Nelson Castellanos  
Division Administrator  
Federal Highway Administration  
Maryland Division  
10 South Howard Street  
Baltimore, MD 21201

Dear Mr. Castellanos:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (DEIS) for the Intercounty Connector (ICC). We require further analysis or clarification of the issues identified below. Although many of the issues below do not pertain to aquatic impacts, our regulations and the National Environmental Policy Act (NEPA) require us to assess the concern for protection of aquatic resources as well as the project's impacts to other resources. Therefore, it is essential that we have an understanding of the full extent of the project's social, economic, and environmental impacts. Resolution of the following comments should be discussed with my staff and addressed in the Final Environmental Impact Statement (FEIS).

Impacts Beyond the Limit of Disturbance

1. The wetland and stream impacts quantified in the DEIS have been calculated by including all of these resources which fall within the right-of-way lines. This fact, and the fact that the Corps is now taking jurisdiction over the wash ponds, account for the majority of the increase in aquatic impacts between the 1997 DEIS and the 2004 DEIS. In order for the Corps to authorize a discharge of fill in a regulated wetland or stream, a finding of compliance with the 404(b)(1) Guidelines must be made (see 40 CFR 230.1 *et seq.*) In order for us to make this finding, the applicant must demonstrate that the impacts have been avoided and minimized to the extent practicable at *each* proposed discharge site. Including all wetlands and stream areas that fall within the right-of-way lines as impacts does not demonstrate compliance with the 404(b)(1) Guidelines. The determination of whether appropriate steps have been taken to avoid and minimize adverse effects to aquatic resources as required by the Guidelines is frustrated due to the lack of precise impact information provided in the DEIS. In order to make our factual determinations and finding of compliance with the Guidelines, the Corps needs the actual proposed footprint of fill and full documentation of compliance with the Guidelines at each of the proposed discharge sites. This must be included in the FEIS.

We recommend the establishment of a committee comprised of Federal Highway Administration (FHWA), State Highway Administration (SHA), Maryland Department of the Environment (MDE), and Corps personnel to review the plans and quantify, for each alternative, the aquatic resources that the committee determines are needed to accomplish the project goals and objectives. The committee should also determine the areas where it is appropriate to require stream relocation or restoration rather than piping, and areas where retaining walls and other minimization measures should be explored.

### Construction-Related Impacts

2. Future meetings of the study team should reach consensus on construction-related impacts. A discussion of these impacts needs to be included in the FEIS. Issues of concern include (1) whether to require portable bridges or pipe culverts at temporary stream crossings, (2) whether to require causeways or trestles for access across wetlands, (3) whether to require a haul road or allow heavy trucks on the local road network, (4) whether construction equipment access roads should be located between, or outside, parallel bridge spans, (5) the limits of forest clearing outside bridges and beyond the toe of fill, (6) whether to grub woody vegetation cleared beneath bridges, (7) the limits of slope protection beneath bridges, (8) requirements for stabilization, restoration, or replacement of temporary impacts, (9) requirements for control of invasive species in temporarily-disturbed areas, (10) areas where earth can be temporarily stockpiled, (11) areas where the Konterra wash ponds can be de-watered, if determined necessary, and (12) areas that are off-limits to the construction of batch plants.

3. If a build alternative is ultimately permitted, we support the use of environmental monitors during construction. The Woodrow Wilson Bridge project has a proven record of environmental compliance, and that model should be copied on this project. This should be a commitment cited in the FEIS.

### Sediment and Erosion Controls

4. As a result of sediment and erosion control issues raised on two recent SHA detail-build construction projects, we are very concerned about the challenge of managing this issue on the ICC. Based on a meeting we held with SHA personnel and the contractor of one of those projects, and based on discussions at SHA's Maryland Quality Initiative (MdQI) conference, we understand the maintenance of sediment control devices poses a unique challenge on detail-build projects because there is no way for a prospective bidder to predict whether the construction period will be an unusually wet year that requires greater than normal labor and material costs to maintain the sediment control devices. By removing some of the uncertainty and risk for contractors, SHA would have more cooperative contractors, resulting in better compliance with the sediment and erosion control regulations. At the MdQI conference, we attended a presentation on SHA's new incentive/ disincentive policy for sediment and erosion control. We strongly recommend consideration of methods to remove some of the uncertainty and risk for

contractors. One suggestion raised by one of SHA's environmental monitors was to include a contingency bid item for maintenance of sediment control devices. This would enable a detail-build contractor to be assured of being compensated every time maintenance is performed, thereby eliminating the delays and resistance that result when the contractor is concerned about having to perform work that was not anticipated in his bid price. It is imperative that this issue be resolved so that contractors on future detail-build projects will be cooperative, responsive, and prompt in addressing sediment and erosion control deficiencies. So long as this continues to be an issue on other detail-build projects, we will factor this concern into our permit decision on the ICC.

5. We agree with the statement on Page IV-184 of the DEIS that there would be a need for redundant sediment and erosion controls in the Paint Branch and Patuxent watersheds.

6. At the MdQI conference, we learned that SHA is exploring the use of coagulants containing either polyacrylamides (which SHA identified as carcinogenic) or alum to expedite the settling of fine materials in their sediment basins. A water quality analysis of these additives which discusses their health effects and their impacts on aquatic species must be included in the FEIS.

#### Northwest Branch Option B

7. There are two options for Corridor 1 through Northwest Branch Park. Northwest Branch Option A was developed to reduce the impact to aquatic resources as Corridor 1 traverses the park. It greatly reduces the floodplain and wetland impacts, and eliminates the need for a relocation of Northwest Branch main stem. While both alignments result in extensive forest clearing, the trees in the floodplain and wetlands provide some additional aquatic functions not provided by the upland trees, such as flood storage, nutrient exchange, anchoring the streambanks, a buffer against pollutants entering the streams, and aquatic habitat structure. Northwest Branch Option B would incur more direct and indirect impact on the stream. The Corps can only authorize the alternative that results in the least impact to aquatic resources, unless that alternative has other significant adverse environmental consequences. We are not aware of any significant adverse environmental consequences associated with Northwest Branch Option A that would make Northwest Branch Option B permissible. Both options provide identical benefits to highway capacity, safety, operations, mobility, and diversion of traffic from the local road network. Both options have similar community impacts. Although Northwest Branch Option A displaces a fire-damaged storage facility associated with the Trolley Museum, we understand that the Museum has plans to relocate to another site. In the absence of any impacts that would justify selecting the more-damaging option, Northwest Branch Option B is not permissible.

#### Reservoir Impacts

8. The Secondary and Cumulative Effects Analysis (SCEA) contrasts the potential secondary development effects of Corridor 1 and Corridor 2 on the Rocky Gorge watershed. Based on

development projections by the Expert Land Use Panel (ELUP), the Burtonsville Traffic Analysis District (TAD) and the Laytonsville TAD would experience 350 acres of secondary development with Corridor 1 and 800 acres of secondary development with Corridor 2, in the Rocky Gorge watershed. The SCEA considers the 450-acre difference in projected secondary development to constitute a substantial disparity between the two alternatives in terms of impacts to the reservoir. The SCEA also indicates that between now and the year 2010, 4551 acres of near-term development are expected to occur in the Rocky Gorge watershed regardless of whether or not the ICC is constructed. It appears that far more damage will occur between now and 2010, than would occur as a consequence of the construction of either ICC alternative. While the Corps is genuinely concerned about the potential impact that Corridor 2 would have on the reservoir, these facts put a different perspective on the 450-acre disparity in development potential between the two alternatives. The full extent of projected development in the Rocky Gorge watershed, including the near-term development, needs to be clarified in the FEIS.

9. The SCEA and DEIS discuss the impacts of additional impervious surface in Rocky Gorge watershed in qualitative terms (increased stream erosion, lost reservoir capacity, potential impacts to aquatic life, increased cost of water treatment, etc). The direct impacts, the impacts of the near-term development, and the impacts of the secondary development need to be described quantitatively to explain the consequences of these impacts on water quality, and the findings discussed in the FEIS. This will help us better understand the significance of the secondary impacts of future development.

10. Please provide a risk assessment of the potential for a hazmat accident occurring in the reservoir watershed, with the Burtonsville A Option, and discuss the findings in the FEIS. (We acknowledge that Burtonsville B should not receive further consideration due to its proximity to the reservoir.)

#### Trout Stream

11. For the Corridor 1 Alternative, we continue to encourage the consideration of a deep well to pump cold groundwater into the Good Hope tributary in order to help sustain the stream during summer months, which is the time when the impact of low base flows and high temperatures is most pronounced. Please provide your analysis of the feasibility, costs, and impacts of this proposal, and summarize your findings in the FEIS.

12. Please clarify in the FEIS how you intend to manage the water draining off the proposed highway embankment at the three existing swales between Station 705 and 735.

13. Please provide more specific details about the management of the channel protection volume in Paint Branch watershed. If the existing retention pond at Spring Oak Estates is to be expanded and converted to a 12-hour detention pond in order to manage this volume, we would need to know the extent of the impact to parklands, forests, streams, etc. required for the pond expansion. We note that as an alternative to these additional impacts, underground storage of the channel

protection volume remains an option. The costs, impacts, and feasibility of each option must be analyzed, and the conclusions reported in the FEIS.

#### Konterra Wash Ponds

14. In January 2005, we received MDE's assessment of the value of the Konterra wash pond wetlands. The wash ponds are dominated by phragmites, an invasive species that not only out-competes other plants (thereby eliminating vegetative diversity), but also has a dense root mat that eliminates habitat for most aquatic species. MDE concluded that the wash pond wetlands have minimal habitat value. Given the amount of sediment that has been deposited in the wetland downstream of the 35-foot high dam, and the lack of storage capacity in the ponds, it appears the ponds have little, if any, remaining sediment retention function or flood storage function. Our conclusions mirror those of MDE. Nevertheless, the wash ponds are regulated wetlands, and an analysis of minimization efforts is required in the FEIS.

15. At an August 19, 2004, meeting with URS and SHA staff, we requested an analysis of a slight bowing of the alignment northward to minimize the fragmentation of wetland 6JA and to minimize impacts to the identified population of *Aster radula* and *Smilax pseudochina*, two State-protected plant species. Such a shift would not impact any residences. We wish to emphasize that we are not suggesting a change in the location of Corridor 1's intersection with U.S. Route 1. In consideration of the potential wetland minimization, this request must be addressed, and the findings reported in the FEIS. Furthermore, because this area is slated for development, consideration should be given to the possibility of permanently protecting the plants' habitat.

16. At an August 19, 2004, meeting with URS and SHA staff, we were shown a preliminary plan for a replacement wash pond for Laurel Sand and Gravel. The plan indicated a replacement pond was to be constructed in the stream. We strongly discourage construction of in-stream ponds because they disrupt normal bedload transport. In addition, we would discourage the use of any jurisdictional stream as a disposal site for an industrial waste. We also have concerns with the erosive velocities that would be produced at the outlet of the proposed 650-foot long culvert on a 4.7% grade. It appears that the stream could be restored to its pre-existing gradient if the dam were breached. Please explore alternatives to address these concerns and include the findings in the FEIS. Furthermore, note that these impacts are not presently part of the joint permit application, though they need to be if the wash ponds will be relocated in a jurisdictional area.

17. We remain concerned about the feasibility of constructing on top of the wash ponds. The employees at Laurel Sand and Gravel have advised that while the wash pond wetlands have a dry outer crust, the material below is extremely fluid. Depending upon the results of soil borings (which have not yet been performed), it may be determined necessary to excavate, de-water, and dispose of the large volume of watery clay contained in the ponds. This operation, which could require substantial acreage and significant hauling, has the potential to result in additional impacts to the natural and human environment. The Corps is particularly concerned with the potential impacts that a de-watering and disposal operation could have on aquatic resources.

This activity and its potential impacts need to be discussed in the FEIS.

#### Mitigation

18. Please provide the details on the replacement of the approximately 800 acres of forest that could be impacted (worst case), as this amount of forest loss could have a significant impact on water quality if not replaced. Such information must be contained in the FEIS.

19. The DEIS lacked information on the location of replacement parkland, which is essential to our determination of whether the project is in the public interest. Please provide this information, and include it in the FEIS.

Community Impacts - Community impacts of Corridor 2 are thoroughly discussed in the DEIS. The following comments pertain to the community impacts of Corridor 1.

20. The FEIS needs to address how traffic from Longmeade residences on the west side of Corridor 1 would be able to access MD 28 while the bridge carrying Longmeade Crossing Drive over Corridor 1 is under construction.

21. The proposed partial interchanges with Corridor 1 at Old Columbia Pike and Briggs Chaney Road are not proposed on the Master Plan. The FEIS must discuss how these new interchanges would transform the communities along Old Columbia Pike and Briggs Chaney Road. There is no traffic projection for Old Columbia Pike in the DEIS. Traffic projections would be necessary to assess the noise impact on residences and the impacts on accessibility to community facilities such as Paint Branch High School and Benjamin Banneker Middle School. These two new interchanges would be utilized by truck traffic delivering cars to the Auto Mall on Briggs Chaney Road, because constraints on space preclude these local movements being accommodated at the proposed Corridor 1/U.S. 29 interchange. This would significantly change the composition of traffic on Old Columbia Pike, and this road could potentially require future widening to accommodate the additional volume, bringing the traffic closer to the existing residences. The change in character of Old Columbia Pike would exacerbate noise and proximity impacts for the residents living along the road, and likely exert a destabilizing influence on the neighborhood as people either seek to relocate or convert their residences into rental properties or offices due to the severe change in proximity impacts. We understand SHA is currently evaluating whether the function of the partial interchange at Old Columbia Pike could be served by the proposed Fairland Road/U.S. 29 interchange, thus allowing the partial interchange to be eliminated from Corridor 1. While this would eliminate the direct impacts of the interchange, there would continue to be a need to assess in the FEIS the impact of the additional projected traffic that would utilize Old Columbia Pike to access the Fairland Road/U.S. 29 interchange.

#### Historic Sites

22. The document has a detailed analysis of the impact of Spencerville Option A on the Free

Methodist Camp Meeting Ground. The DEIS states that Spencerville Option A would have noise and visual impacts that would rise to the level of “substantial impairment of the attributes and features that contribute to the historical significance of the property.” Please provide an analysis of a cut-and-cover section to reduce the “substantial impairment,” and report the conclusions in the FEIS.

23. The Columbia Primitive Baptist Church would experience an adverse effect with Burtonsville A and B due to the change in visual setting associated with the clearing of the existing woods to the north of the church. In an effort to reduce the adverse effect, we recommend that the ramp from eastbound Corridor 2 to existing U.S. 29 be relocated to the east side of existing U.S. 29, so that a wooded buffer of more than 200 feet would remain between the church and Corridor 2. Please provide an analysis of this recommendation, and report the findings in the FEIS.

24. With Corridor 1, the intersection of Layhill, Norwood, and Ednor Roads is projected to be 25% over capacity (DEIS Fig. IV-14), which would be an improvement over the No-Build scenario. However, with Corridor 2, the same intersection is projected to be 78% over capacity (DEIS, Fig. IV-17), which is far more congested than the No-Build scenario. With either Build alternative or the No-Build, it is apparent that a future intersection improvement would be needed to address congestion and, as confirmed by a representative of Montgomery County DPWT at a recent interagency meeting, the historic Red Door Store could possibly require relocation in order to make the necessary intersection improvements. The likelihood of relocation would be even more pronounced if Corridor 2 was selected. This potential future impact to the historic site should be disclosed in the FEIS, as it may affect SHA’s decision whether to invest environmental stewardship funds in the rehabilitation of the structure.

25. Based on comments from the public hearings, there are apparently a number of historic cemeteries affected by Corridor 2. Please provide an assessment of the impacts to these cemeteries, and include the information in the FEIS.

## Noise

26. The Noise Quality Technical Report (NQTR) indicates that the homes in the Norwood Village community (located in the southwest quadrant of the MD 28/ MD 182 intersection) would be subjected to noise levels approaching or exceeding the noise abatement criteria. The NQTR indicates that the noise levels experienced in Norwood Village would be partly attributable to the ICC and partly attributable to traffic on MD 28, and concludes that construction of a wall along the ICC would have no effectiveness for this community due to the noise that would continue to emanate from MD 28. However, the NQTR does not evaluate the effectiveness of mitigating the ICC noise by constructing a wall on the south side of MD 28. Such a wall would be expected to effectively mitigate noise from both roads. (This approach would be consistent with the strategy that was employed for the noise wall on Spencerville C that would protect Edgewood II from both the MD 198 noise as well as the ICC noise).

This wall should not be rejected without analysis simply because, as an added benefit, it might mitigate noise from a road other than proposed project.

We recognize that such a wall would require a break for the Wallingford Road entrance to the community, however, we would expect that by wrapping the walls for a short distance along Wallingford Road, the requisite insertion loss could be achieved. It also appears that sight distance concerns for vehicles leaving the subdivision via Wallingford Road would not be an impediment if the wall were constructed along the property lines. Please provide an analysis of this request and discuss the findings in the FEIS.

27. At Norbeck Knolls (Noise Sensitive Area 26-1), the NQTR indicates that a combination of three barriers extending 4079 feet from Rebecca Court to 900 feet east of Whitehaven Road would benefit 11 residences, but would not qualify as reasonable due to the cost per residence. A single wall constructed immediately adjacent to Corridor 2 (rather than adjacent to Relocated Whitehaven Road), which starts and ends at the same points as the combination wall, would need to be only 3350 feet long to protect the same 11 residences, and could potentially qualify as reasonable under your cost criteria. Please provide an analysis of this wall to reduce highway noise at the community of Norbeck Knolls and the Amersley historic site, and include your findings in the FEIS.

28. The top of page V-41 of the NQTR indicates that the investigation of a noise barrier is warranted for noise receptor 30D with Spencerville Option A to Burtonsville A. However, we could not find an analysis of such a barrier in the feasibility analysis which begins on page V-58. Please provide the missing analysis, and discuss the conclusions in the FEIS.

29. Page V-87 and V-88 indicate that two noise barriers along the south side of Corridor 2 were found reasonable to protect 17 residences in NSA 30 under the Spencerville A to Burtonsville B Option. The two barriers consist of a 1200-foot barrier west of Good Hope Road and a 2600-foot barrier on the north side of Spencerville Knolls extending from MD 198 to Batson Lane (Plates 59 and 72 of the NQTR). The 2600-foot barrier appears to protect only 4 residences. The FEIS mapping needs to clearly depict the residences that would benefit from such a wall and should confirm that this wall qualifies under your cost criteria.

The Spencerville B to Burtonsville B Option evaluated an identical 2600-foot barrier between MD 198 and Batson Lane, but did not include the 1200-foot barrier west of Good Hope Road (Plate 63 and 72), which appears feasible to construct along the south side of Relocated MD 198 in order to protect the Upland Drive community. In this case, the barrier was found to be not reasonable. Would the addition of a 1200-foot barrier west of Good Hope Road make the barrier for Spencerville B to Burtonsville B Option reasonable, as it did for Spencerville A to Burtonsville B Option? Please provide your analysis and discuss the findings in the FEIS.

30. There does not appear to have been any noise receptor modeled along the Upland Drive community. Consequently, it is not known whether the Spencerville B to Burtonsville A Option



would result in a noise increase sufficient to warrant an investigation of the feasibility of a noise barrier in order to protect the Upland Drive community. In this case, the barrier was found to be not reasonable. Would the addition of a 1200-foot barrier west of Good Hope Road make the barrier for Spencerville B to Burtonsville B Option reasonable, as it did for Spencerville A to Burtonsville B Option? Please provide your analysis and discuss the findings in the FEIS.

31. The top of page IV-110 in the DEIS indicates that a noise barrier was considered reasonable and feasible for the Amersley historic site. However, page V-75 of the NQTR indicates a barrier is not reasonable. Which is correct? The FEIS must be consistent on this issue.

32. By drawing a 67 dBA contour line throughout the parklands, and another contour line representing a 10 dBA increase, the area of parkland that is impacted by either a 10 dBA increase or noise in excess of 67 dBA can be determined. This acreage needs to be quantified in the FEIS.

33. It is not clear why the townhouses on Dinsdale Drive in the Longmeade community would experience a design year noise level of only 62 dBA when the townhouses are immediately adjacent to the ICC, and the ICC is on fill. Homes that are the same distance from the ICC elsewhere in Longmeade are projected to experience 66-68 dBA noise levels. Noise barriers were not considered to be warranted as a result of the low noise projection. Please substantiate that this noise projection is correct.

#### Bike Path

34. In case there is still any misunderstanding about our position, we wish to clarify that we are amenable to considering an application for a low-impact bike path in the ICC study area, whether as part of your application for an ICC, or as an independent project. Our expectation would be that the streams are bridged, however, we would be satisfied with bridges of the type that are typically used on trail systems, as opposed to an expensive widening of a freeway bridge. We would also expect that the trail would be routed to avoid wetlands and sensitive natural resources, and that it could make use of areas that would already have been cleared or disturbed, such as utility corridors, abandoned railroad rights-of-way, or areas that the contractor would be clearing anyway for haul roads (assuming an ICC is also authorized). Based on information conveyed at the public hearings, we understand that SHA proposes to grade, but not pave, the bike path. In order to consider an authorization for this ancillary project, the Corps would need to know the amount of impact to aquatic resources that would be required specifically to construct the proposed portions of the bike path. Furthermore, because SHA is not proposing to construct a continuous bike path, we would need supporting documentation that the portions of bike path for which SHA is seeking a Department of the Army permit would constitute a single and complete project (i.e., documentation of independent utility). Please provide the missing data, and include that information in the FEIS. As with the replacement wash ponds at Konterra we note that a bike path is not presently part of the joint permit application. If this is part of the project it must be

added so that the requisite NEPA and 404(b) (1) analysis can be performed.

**Traffic Analysis**

35. The DEIS does not contain information on projected levels-of-service at interchange ramp termini. Please provide this information, and include it in the FEIS.

We will forward to SHA and FHWA copies of any public comments we receive, unless SHA and FHWA were copied. We request that SHA and FHWA forward to us all comments received on the DEIS. We reserve the right to comment on any concerns that are brought to our attention by the public or resource agencies prior to the close of the official comment period. If you have any questions, please call me at (410) 962-4646.

Sincerely,

A handwritten signature in black ink, reading "Christina E. Correale". The signature is fluid and cursive, with a long horizontal flourish at the end.

Christina E. Correale  
Chief, Operations Division